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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF OKLAHOMA

3 (1) PATRICIA THOMPSON, as Personal
4 Representative of the Estate of
5 MARCONIA LYNN KESSEE,
6 Plaintiff,

7 VS.

Case Number
CIV-19-113-SLP

8 (1) NORMAN REGIONAL HOSPITAL
9 AUTHORITY d/b/a NORMAN REGIONAL
10 HOSPITAL, a public trust, et al.,
11 Defendants.

12

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DEPOSITION OF TODD R. GIBSON
TAKEN ON BEHALF OF THE PLAINTIFF
IN OKLAHOMA CITY, OKLAHOMA
ON MARCH 18, 2021
COMMENCING AT 9:01 A.M.

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Reported by: Cheryl D. Rylant, CSR, RPR



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1 was appointed to sheriff in October of 2017. And
2 then was elected into the position in November of
3 2018.

4 And then, in April of 2020, became chief at
5 Moore Police Department.

6 Q. Okay. So this incident occurred on
7 January 16th of 2018. Do you understand that?

8 A. Yes, sir.

9 Q. And this is an incident with regard to
10 Marconia Kessee. Are you familiar with the incident
11 in general?

12 A. Yes, sir.

13 Q. At the time of this incident on
14 January 16th of 2018, you were the acting sheriff for
15 Cleveland County; true?

16 A. Yes, sir.

17 Q. As the acting sheriff for Cleveland County,
18 you had the final policymaking authority with regards
19 to what occurred in the jail; true?

20 A. Yes, sir.

21 Q. Did you have to have your decisions with
22 regard to the jail approved by any board or -- like
23 the board of county commissioners, for example?

24 A. No, sir.

25 Q. You had the power to set policies in the

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1 jail, to create policies?

2 A. Yes, sir.

3 Q. You had the power to enforce those policies?

4 A. Yes, sir.

5 Q. You had the power to establish the customs
6 and practices of the jail?

7 MS. DARK: Object to the form.

8 THE WITNESS: In regards to its operation?

9 Q. (By Mr. Hicks) Its day-to-day operation?

10 A. Yes, sir.

11 Q. You had the power, in that regard, to set
12 forth written procedures for the day-to-day operation
13 of the jail?

14 A. Yes, sir.

15 Q. Okay. We have what we'll mark as Exhibit 1
16 the Cleveland County Policy and Procedure Manual.
17 I'm going to go ahead and hand it to you and we'll
18 mark it as Exhibit 1. It's already got a sticker on
19 it.

20 A. Yes, sir.

21 (Exhibit 1 marked.)

22 Q. (By Mr. Hicks) It's CCSO300 through 578.

23 And you're welcome to thumb through that. I
24 know it's a lot of pages. Is that the entirety of
25 the policy and procedures that were in effect at the

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1 Turn Key -- and I believe they were previously DSW
2 and had some other names, but right now we're
3 referring to them as Turn Key.

4 Was Turn Key providing medical already when you
5 first came in, in October of 2017, as sheriff? Were
6 they already providing medical at the jail?

7 A. Yes, sir. All the contracts -- I came into
8 that position in the middle of a fiscal year; so all
9 contracts were already in place and operational,
10 whether it's Turn Key or your commissary contracts
11 like that.

12 Q. When you became sheriff in October of 2017,
13 did you review the contract between the
14 Cleveland County -- well, Cleveland County and
15 Turn Key?

16 A. Review the formal contract? No.

17 Q. Okay. Were you aware, at any time prior to
18 January of '18, of what your rights were as the
19 sheriff of Cleveland County to terminate the contract
20 between Cleveland County and Turn Key?

21 A. No.

22 Q. Were you aware, prior to January of '18, what
23 your rights were under the contract to refuse to
24 allow any specific employee of Turn Key to provide
25 medical services in the Cleveland County jail?

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1 A. No.

2 Q. Did you do anything to make yourself aware of
3 your rights and duties under the contract with
4 Turn Key?

5 A. I had a meeting with Turn Key executives
6 early on in my taking on that role as the interim
7 sheriff. Sometime between October and this date,
8 that three-month period, I had sat down with Turn Key
9 executives and discussed their contract and the
10 future of their contract and if we would be
11 continuing at the term of the current contract. But
12 I was not under any impression that I could change a
13 contract that was already existing or ongoing because
14 the county already had an agreement with them. And
15 technically, those contracts are signed off on by the
16 board of county commissioners, not by me
17 specifically.

18 Q. I will hand you -- we'll mark it as 2.
19 CCO -- CCSO154 through 164.

20 (Exhibit 2 marked.)

21 Q. (By Mr. Hicks) And it's what's been provided
22 to us as the contract between Cleveland County and
23 Turn Key.

24 Have you seen this contract before?

25 A. No, sir.

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1 Q. We'll go through it here in a little bit, but
2 I just wanted to identify it at this point.

3 You have no idea what your rights and
4 obligations are under this contract -- or you had no
5 idea prior to January of '18; true?

6 A. Yes, sir.

7 Q. Tell me about your meeting with the Turn Key
8 rep that occurred sometime after October of 2017
9 before this incident. What was specifically -- you
10 kind of gave me an overview of what you discussed,
11 but tell me as much as you can remember about the
12 specifics of that conversation.

13 A. It was over a lunch. And we talked about
14 kind of their position in the marketplace and kind of
15 the services that they provided at the
16 Cleveland County detention --

17 MS. DARK: Hold on.

18 MR. HICKS: Let's go off the record.

19 THE MONITOR: Going off the record. The
20 time is 9:26 a.m.

21 (Break was taken: 9:26 a.m. to 9:27 a.m.)

22 THE MONITOR: We are back on the record.
23 The time is 9:27 a.m.

24 Q. (By Mr. Hicks) All right. We had a little
25 Zoom hiccup; so we'll get back going.

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1 A. No, sir.

2 Q. So you met with mister -- or excuse me -- you
3 had some conversation -- did you meet with mister
4 Junod Flint?

5 A. Prior to that?

6 Q. Prior to January of '18, did you have an
7 in-person meeting, or was this just phone
8 conversations?

9 A. It would be purely speculation, but I believe
10 it was just over the phone. Now, we have met in
11 person on numerous occasions. But that -- up
12 until -- because it's such a short time frame, I'm
13 going to say it was over the phone.

14 Q. Okay. And I don't want you to guess or
15 speculate --

16 A. Right. I don't want to.

17 Q. -- if you recall --

18 A. I don't recall a specific in-person meeting.

19 Q. You do recall having phone conversations
20 prior to January of '18?

21 A. Yes.

22 Q. With Mr. Junod or whatever his last name
23 might --

24 A. Yes, sir.

25 Q. What was the content -- the specific content

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1 of those conversations, to the best of your
2 recollection?

3 A. I don't remember specifics.

4 Q. Did you discuss -- strike that.

5 Did you have any paperwork or documents that
6 you referred to in those conversations?

7 A. No.

8 Q. Did Mr. Junod have any paperwork or documents
9 that you felt like he was referring to, like it
10 seemed like he was reading from something?

11 A. No, sir.

12 Q. So it's fair to say, then, that you guys did
13 not review the policies for Cleveland County
14 Detention Center in those conversations?

15 A. These policies (indicating)?

16 Q. Yes.

17 A. No, sir.

18 Q. Is it fair to say you did not review the
19 policies for Turn Key Health Clinics in those
20 conversations?

21 A. Correct.

22 Q. At any point prior to January of '18, did you
23 sit down with a Turn Key employee or representative
24 and review the policies of the Cleveland County
25 Detention Center?

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1 role as a sheriff of Cleveland County?

2 A. Making sure that we were providing the
3 services to our community of sheriff.

4 Q. Okay. One of those services being medical
5 for prisoners in the Cleveland County Detention
6 Center?

7 A. Yes, sir.

8 Q. Okay. Did you talk to anyone else at
9 Turn Key, prior to January of 2018, besides your
10 meeting with Mr. Echols and your phone
11 conversation -- is it a conversation or multiple
12 conversations with Mr. Junod?

13 A. I don't recall. I will say a conversation.

14 Q. And your phone conversation with Mr. Junod?

15 A. No, sir.

16 Q. So, to your recollection, you had one lunch
17 meeting with John Echols and one phone conversation
18 with Mr. Junod, prior to January of '18, with -- of
19 all the people at Turn Key?

20 A. Yes, sir.

21 Q. Okay. And you spoke with no one else at
22 Turn Key prior to January of 2018?

23 A. Not that I remember.

24 Q. Okay. Did you ever speak with Clayton
25 Rickert prior to January of 2018?

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1 A. No, sir.

2 Q. Did you do any sort of evaluation of his --
3 let me back up.

4 Was Clayton Rickert the LPN from Turn Key at
5 the Cleveland County Detention Center when you took
6 role as sheriff? Was he already there?

7 A. Yes, sir.

8 Q. Did you do anything to determine whether
9 Clayton Rickert, as opposed to Turn Key as a whole --
10 just Clayton Rickert -- was a good fit as an LPN
11 nurse at the Cleveland County Detention Center prior
12 to January of 2018?

13 A. No, sir.

14 MR. WINTER: Form. Anthony.

15 Q. (By Mr. Hicks) Did you look at his personnel
16 file?

17 A. No, sir.

18 Q. Ask anybody about like how he's doing as an
19 employee, perhaps one of your subordinates?

20 A. No, sir.

21 Q. Anything at all?

22 A. (Shakes head.)

23 Q. Okay. And that was a no?

24 A. Yeah. I'm sorry. No, sir.

25 Q. It's my understanding that Clayton Rickert

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1 was the most medically trained human being in the
2 Cleveland County Detention Center on January 16th,
3 2018, when Marconia Kessee was there. Is -- am I
4 wrong in that?

5 MR. WINTER: Form.

6 THE WITNESS: To my knowledge, that's
7 correct.

8 Q. (By Mr. Hicks) Was there anyone else -- and
9 I understand your jailers had CPR and basic first
10 aid. But was there anyone else in the jail at the
11 same time Marconia Kessee was there, to your
12 knowledge, who had any medical training beyond your
13 basic jailer type training?

14 A. Not that I know of.

15 Q. I think there might have been like a
16 Kurt Russell, ACMA. And I don't even know what ACMA
17 means. But do you know who that is?

18 A. No, sir. And I don't know what ACMA means
19 either.

20 Q. Have you ever spoken with Kurt Russell?

21 A. No, sir.

22 Q. Okay. Are you even aware that -- were you
23 even aware as to whether or not he was an employee of
24 Turn Key?

25 A. I was not even aware he or Mr. Rickerts were

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1 procedures and policies?

2 MR. WINTER: Same.

3 Q. (By Mr. Hicks) Those medical staff that are
4 in your jail providing medical care?

5 A. Yes, sir.

6 Q. Did you do anything to ensure, prior to
7 January of 2018, that the Turn Key medical staff was
8 familiar with the Cleveland County Detention Center
9 policies and procedures?

10 A. I had no reason to believe that they weren't
11 aware. We were in the middle of a contract, and I
12 had no indication that there were any problems, that
13 they hadn't or didn't. So, no.

14 Q. To be clear, you did nothing to make sure
15 that Clayton Rickert or other employees of Turn Key
16 were familiar with the policies and procedures of the
17 Cleveland County Detention Center with regard to
18 provision of medical care; true?

19 A. True.

20 Q. Why is it important for the medical staff,
21 whether it be -- whether they be employed by Turn Key
22 or anyone else, in your jail -- and when I say "your
23 jail," the Cleveland County Detention Center. It's
24 just really long to say that.

25 Why is it --

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1 Q. Do you know, or did you know back then,
2 whether anything was actually being rehearsed
3 whatsoever?

4 A. Well, as part of my review process and my
5 discussion, I knew that we -- we practiced for
6 ambulances and fire trucks coming into the facility.
7 So I know they have a practice of going through those
8 exercises so that when it occurs, it's done
9 appropriately. But during that three-month period
10 that I was newly in that position, did I know details
11 of it? No.

12 Q. Okay. We discussed a little bit about review
13 processes and annual reviews. Is there a particular
14 date of the year that that all occurs?

15 A. No, sir.

16 Q. How do we know it's actually occurring
17 annually?

18 A. Because we're constantly -- well, under my
19 administration, we were constantly reviewing our
20 processes and policies of operations.

21 Q. Just not in the first three months?

22 A. Right.

23 Q. So when did you start --

24 A. Well, I would argue that we maybe did in the
25 first three months when I sat down with the jail

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1 chief and got a review of the jail operations.

2 Q. But that didn't include actually looking at
3 the policies, did it?

4 A. No, sir.

5 Q. That didn't include actually talking about
6 the individual jailers' evaluations of performance,
7 whether they were actually meeting those policies,
8 did it?

9 A. Correct.

10 Q. That didn't include determining whether
11 Clayton Rickert or anyone at Turn Key was doing --
12 was actually meeting the expectations of the policy
13 and providing adequate medical treatment, did it?

14 A. No.

15 Q. Okay. No? Did you say no, it did not
16 include that?

17 A. To clarify, I did not have any specific
18 conversation about Clayton Rickerts prior to
19 January 16th, 2018. During a review, I was given no
20 indication that there were any issues with the jail
21 or its staff.

22 Q. Did you ask?

23 A. I asked for a review of the facility.

24 Q. Did you ask about the medical provisions of
25 the jail, the medical staff?

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1 Q. Do you believe it's important to have a full
2 understanding of policies and procedures and the
3 operations of your jail and actually read those
4 policies and procedures way before a full year of
5 being the sheriff in Cleveland County?

6 MS. DARK: Object to the form.

7 THE WITNESS: I believe it's important that
8 staff is aware and operating appropriately inside the
9 jail. For me to go through and individually read
10 each policy of the jail, I don't know that that's as
11 important as having the right people running the
12 jail.

13 Q. (By Mr. Hicks) Who was the sheriff before
14 you?

15 A. Joe Lester.

16 Q. What are your critiques of Joe Lester?

17 MS. DARK: Object to the form.

18 THE WITNESS: That would be personal
19 speculation.

20 Q. (By Mr. Hicks) What is your personal
21 speculation critiques of Joe Lester?

22 A. He's a great politician, a terrible sheriff.

23 Q. Why? Other than the money? We talked about
24 the money.

25 A. Because I don't think that he -- I think he

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1 A. Not at the level I am today.

2 Q. You had some awareness?

3 A. Yes, sir.

4 Q. You knew something wasn't running the way it
5 should be --

6 A. And he resigned under controversy.

7 Q. Doesn't that give you all the more reason to
8 be reviewing the policies and procedures at what you
9 say was the best jail in Oklahoma?

10 A. No, sir.

11 MS. DARK: Object to the form.

12 THE WITNESS: No, sir.

13 Q. (By Mr. Hicks) Well, it's got Joe Lester's
14 signature on it, and you wouldn't let him be your
15 number 2 at the City of Moore, you won't even let
16 Rhett Burnett be in the building, but you don't think
17 that you should take a look to see what kind of
18 policies he put out before -- like probably
19 immediately?

20 A. Well, as I said, I did a review. But I -- as
21 I understood your previous question, it was did I
22 know every policy? No, I did not know every policy.
23 I think I previously stated that I had signed off on
24 these policies and accepted these policies under my
25 authority.

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1 sheriff's office in that three-month period, it was
2 clear to see that the operations of the jail was
3 probably one of our highest functioning areas. But
4 my biggest problems were, quite frankly, patrol.

5 Q. So you didn't have an evaluation of the
6 jailers, you hadn't looked at the Turn Key policy or
7 the entirety of the Cleveland County Detention Center
8 policy, you didn't even know Clayton Rickert was in
9 your building, and you would state that coming in as
10 sheriff in October of 2017, the jail was tip-top, it
11 was good to go for you?

12 MS. DARK: Object to the form.

13 THE WITNESS: It was functioning at a
14 high level, yes, sir.

15 Q. (By Mr. Hicks) And my question is: If you
16 didn't do any of these things, how do you know that
17 it was functioning at a high level --

18 MS. DARK: Object to --

19 Q. (By Mr. Hicks) -- other than reputation?

20 MS. DARK: Object to the form.

21 THE WITNESS: Well, as I said, I spoke with
22 Turn Key initially, got a review. I spoke with my
23 staff, got a review of the jail, and was given no
24 indication that there were any problems. So I didn't
25 just rely on reputation or speculation. I did

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1 some -- I put forth some effort to determine if my
2 assumption or what I deemed as the reputation of the
3 jail was true and accurate.

4 MS. DARK: Is now a good time for another
5 break?

6 MR. HICKS: Sure.

7 THE MONITOR: Going off the record. The
8 time is 11:07 a.m.

9 (Break was taken: 11:07 a.m. to 11:22 a.m.)

10 THE MONITOR: We are back on the record.
11 The time is 11:22 a.m.

12 Q. (By Mr. Hicks) All right. Do you understand
13 you're still under oath?

14 A. Yes, sir.

15 Q. And is there anything about your past answers
16 you want to change or add to?

17 A. No, sir.

18 Q. Still on page 312 of the policies and
19 procedures -- or Bates 312 -- and I'm looking at
20 paragraph number 9. It says:

21 "Progress in attaining all objectives
22 and will be monitored monthly by the
23 administrator to insure appropriate programs
24 and procedures are in effect."

25 Do you see that?

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1 THE WITNESS: Talking with staff.

2 Q. (By Mr. Hicks) Right. And assuming that
3 they would tell you?

4 A. Yes. I had no reason to believe that they
5 were not telling me the truth and had no incidents
6 of -- prior knowledge of any incidents or
7 deficiencies at the jail.

8 Q. Did you look, prior to January of 2018, to
9 determine whether there were any prior incidents with
10 the jail? And specifically regarding provision of
11 medical care?

12 A. No, sir -- well, look? Like --

13 Q. Did you do any research to see if there was
14 any prior incidents?

15 A. No. Because I had not heard of any. So...

16 Q. Were you aware that one, two, three, four,
17 five, six lawsuits had been filed prior to
18 January 2018 related to provision of medical care at
19 Cleveland County by Turn Key?

20 MR. WINTER: Form.

21 THE WITNESS: I knew that I had inherited
22 some lawsuits from the previous administration, but I
23 was not -- I did not have details of each of those.

24 Q. (By Mr. Hicks) Were you aware that in 2012
25 an inmate claims a failure to provide adequate

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1 medical care?

2 A. No.

3 Q. Were you aware that in 2011, an inmate
4 claimed that there was a failure to provide adequate
5 medical care by --

6 A. No.

7 Q. Was that a no?

8 A. I'm sorry. Were you finished?

9 Q. No. I just didn't hear you.

10 A. Oh, yes. No. I was not aware of the 2011
11 incident.

12 Q. Were you aware in 2015 that an inmate claimed
13 deliberate indifference to medical needs and
14 negligence against the jail and Turn Key?

15 A. No.

16 MR. WINTER: Form.

17 Q. (By Mr. Hicks) Were you aware in 2017, a
18 different inmate claimed failure to provide adequate
19 medical care by Cleveland County and Turn Key?

20 MS. DARK: Object to the form.

21 MR. WINTER: Same.

22 THE WITNESS: Without -- with the
23 information you're providing me, no, I don't recall
24 any specific incident of that.

25 Q. (By Mr. Hicks) Were you aware that there was

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1 a second incident in 2015 where an inmate claimed a
2 failure to provide adequate medical care?

3 A. '15?

4 Q. 2015.

5 A. No, sir.

6 Q. Were you aware there was a second incident in
7 2017 where an inmate claimed that they died at
8 Cleveland County --

9 A. They did die or they claimed that they died?

10 Q. Well, I assume they died. They claim that it
11 was due to actions of the Cleveland County Detention
12 Center and Turn Key.

13 MS. DARK: Object to the form.

14 MR. WINTER: Form.

15 THE WITNESS: No, sir.

16 Q. (By Mr. Hicks) I'm going to mark --

17 A. Without any more details, it would be
18 difficult -- I mean, there might have been things in
19 the news, but, no, sir.

20 Q. This was produced by Turn Key. It's Turn Key
21 192.

22 (Exhibit 6 marked.)

23 Q. (By Mr. Hicks) Have you ever seen that
24 document before?

25 A. No, sir.

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1 Q. Did you ask about any prior lawsuits of
2 Cleveland County Detention Center regarding provision
3 of medical care prior to January of 2018?

4 A. No, sir.

5 Q. You just assumed that someone would tell you?

6 A. Well, I knew that we had lawsuits. I don't
7 know the detail of the -- the fact that they were
8 regarding medical care.

9 Q. And did you ask what deficiencies those
10 lawsuits were claiming with regard to medical care at
11 Cleveland County?

12 A. No, sir.

13 Q. Would it be important --

14 (Reporter clarification.)

15 Q. (By Mr. Hicks) Would it be important, if
16 someone is claiming that they got deficient medical
17 care, to figure out what they're claiming and see if
18 it was something you could correct?

19 MS. DARK: Object to the form.

20 MR. WINTER: Form.

21 THE WITNESS: If that happened, we would
22 want to look into it, yes.

23 Q. (By Mr. Hicks) Well, it looks like it
24 happened six times.

25 MR. WINTER: Form.

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1 A. Yes.

2 Q. Right?

3 MS. DARK: Object to the form.

4 Q. (By Mr. Hicks) Yes?

5 A. We need to have -- we need to have adequate
6 health services at the jail.

7 Q. Okay. And by just assuming that Turn Key's
8 policies, procedures, and practices are adequate to
9 meet the jail standards that you haven't read and the
10 policy, you would need to know what those procedures
11 say?

12 MS. DARK: Object to the form.

13 THE WITNESS: I don't think that I need to
14 know the individual word-for-word details of the
15 Turn Key contract. I think I discussed with Turn Key
16 their services and how they provide service too. I
17 did research to know that they are an industry
18 leader. And I consulted with the leadership at the
19 jail to ensure that there were no deficiencies or
20 problems. I, up and to this point, up until the
21 moment that we're discussing today, had no prior
22 knowledge of any incidents or concerns at the jail.

23 Q. (By Mr. Hicks) I assume, then, that you're
24 not aware that Turn Key was sued for failure to
25 provide medical care in the Garfield County Jail in

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1 2016?

2 A. Is that on this?

3 Q. No?

4 MS. DARK: Form.

5 Q. (By Mr. Hicks) It's available on public
6 record.

7 A. Okay.

8 Q. You didn't do that; right? You didn't --

9 A. I wasn't --

10 Q. -- look that up?

11 A. I wasn't aware of that.

12 Q. You didn't look up the Canadian County case
13 in 2016, did you?

14 MR. WINTER: Same.

15 Q. (By Mr. Hicks) You didn't look up the
16 Canadian County case in 2016 where an El Reno man
17 died after being found naked, unconscious, and
18 covered in his own waste in a cell in the
19 Canadian County Detention Center under Turn Key's --
20 ostensibly under the care of Turn Key medical staff.

21 MR. WINTER: Form.

22 Q. (By Mr. Hicks) The office of the chief
23 medical examiner found that that man had experienced
24 a seizure in the days before his death.

25 You didn't look that case up, did you?

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1 A. No, sir.

2 Q. You didn't look the Creek County case up from
3 2016?

4 A. I didn't look up any cases, sir.

5 Q. So this whole list right here that I've got,
6 you're not aware of any of them?

7 A. No, sir.

8 Q. And I've got one, two, three, four, five,
9 six, seven cases in addition to the six cases that
10 are on the list that you've got. So that's 13 cases
11 from '16 -- that's '16 -- 2016, 2016, 2016, 2016,
12 2017, 2016, and 2016, all within a couple of years of
13 this incident and you being the sheriff and deciding
14 that Turn Key was the way to go and the best in the
15 state. You didn't know any of those 13 cases, did
16 you?

17 A. Are they at the Cleveland County Jail, sir?

18 Q. No. But they're available on public
19 record --

20 A. No, sir.

21 Q. -- and they're all in Oklahoma.

22 A. No, sir. I did not.

23 Q. You didn't look those up?

24 A. No, sir.

25 MR. WINTER: Jason, are you -- are you

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1 referencing a document to be marked as an exhibit?
2 Or what are you talking about, these two lists? I'm
3 kind of confused.

4 MR. HICKS: The current document is not an
5 exhibit.

6 MR. WINTER: And the "current one," is that
7 the one that references suits outside of the
8 Cleveland County Jail, just so I'm following?

9 MR. HICKS: Yeah. It's just some notes
10 that I did, you know, 20 minutes of research. It was
11 pretty easy to do.

12 MR. WINTER: Do you mind marking that as an
13 exhibit so I can kind of see that at a later date or
14 at least allow me to review that document?

15 MR. HICKS: We can talk about it. I only
16 have one copy, and it's all marked up, so -- but we
17 can look at getting you the cases that I'm referring
18 to for sure. I mean --

19 MR. WINTER: Okay. And a list -- and I
20 don't need your annotations, but a list of whatever
21 you're looking at and you're questioning Mr. Gibson
22 on I'd like. Thank you.

23 MR. HICKS: Sure. Yeah. No problem.

24 Q. (By Mr. Hicks) If you'll go to paragraph 2
25 on 5-8, it says: Medical triage screening shall be

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1 Q. (By Mr. Hicks) Would you agree that you
2 can't determine whether someone is unconscious or
3 sleeping in one second?

4 MS. DARK: Object to the form.

5 MR. WINTER: Form.

6 THE WITNESS: Well, I think you can tell if
7 somebody is alive within that second.

8 Q. (By Mr. Hicks) How?

9 MS. DARK: Object to the form.

10 THE WITNESS: A variety of ways. Maybe
11 they saw movement, maybe they saw rising and falling
12 with the chest. You would have to ask them what they
13 saw that led them to believe that he wasn't in some
14 sort of distress or emergency.

15 Q. (By Mr. Hicks) And you believe, under
16 policy, one second is long enough to make those
17 determinations?

18 MR. WINTER: Same.

19 THE WITNESS: I believe that they complied
20 with the policy.

21 Q. (By Mr. Hicks) And even though Rickert is
22 the person who you said would be most responsible for
23 determining whether Marconia was faking as opposed to
24 having a real injury, you have no criticism of the
25 fact that he didn't come back to look at Marconia for

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1 responsible for ensuring that gets done.

2 Q. Who is that training member --

3 A. It's --

4 Q. -- or was it back in --

5 A. I think it was Lieutenant Keller at that
6 point.

7 Q. Keller?

8 A. Keller.

9 Q. K-E-L-L-E-R?

10 A. Yes, sir.

11 Q. Okay. Does Lieutenant Keller provide any
12 sort of written documentation of this in-service
13 training to either show it happened or anything more
14 specifically, like handouts to show what was said?
15 Did he do that back when you were sheriff?

16 A. I'm not sure. You'd have to ask him.

17 Q. Okay. Do you have any oversight or knowledge
18 of what Mr. Keller actually did regarding in-service
19 training when you were sheriff?

20 A. As far as --

21 Q. Do you have any knowledge of what he actually
22 did for in-service training when you were sheriff?

23 A. I remember doing CPR -- within that
24 three-month? No. He was in that position for some
25 time, and there was a host of training that he

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1 conducted during that time, whether it's defensive
2 tactics, jail academy, jail standards.

3 During that three-month time period that we're
4 discussing there, I don't know any specific courses
5 that he conducted.

6 Q. So, based on your understanding of your
7 policy, what is he supposed to be doing to show that
8 he's actually training these people and what he's
9 training them on, if anything?

10 A. He's supposed to be hosting classes,
11 documenting training, continued educational training
12 in a variety of areas related to the operations of
13 the jail.

14 Q. If you will go to the next page. How do we
15 prove that he does it? Is it -- is there any
16 documents that exist in the world that show the
17 training contents that Mr. Keller provided for
18 in-service training?

19 A. Individual training records, you would have
20 to go back to --

21 Q. I've got the individual training -- I guess
22 I've got the individual training records for all the
23 jailers.

24 What I'm asking for is the substance, the
25 outlines --

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1 A. You want the materials --

2 Q. -- the visual aids, the materials.

3 A. Oh, okay. I'm sorry. I wasn't tracking
4 there.

5 I don't know where that would be. I don't know
6 that Lieutenant Keller has that. And I don't have
7 that.

8 Q. Do you know if that ever existed? Was there
9 ever an outline? Was there ever a visual aid?
10 You know, a PowerPoint?

11 A. It would -- it would be depicted on each
12 individual class. Yes. He commonly used PowerPoint
13 to present a class. I know that he did maintain our
14 CLEET accreditation standards or our CLEET training
15 standards. He was our interface through CLEET,
16 Council on Law Enforcement Education and Training,
17 and he routinely worked with them on the particulars
18 of.

19 Absent the training file, where is those --
20 where are those documents? Do I know that every
21 class he had was CLEET accredited? I can't answer
22 that.

23 Q. Well, here's part of why I'm asking. If you
24 will go to 336, if you're not already there.

25 A. Yes, sir.

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1 what he specifically meant by the words.

2 Q. (By Mr. Hicks) He says -- Mr. Hammons says
3 basically: "I'm going to go out on a limb and say
4 that you don't actually treat like that -- everyone
5 like that." I'm paraphrasing. And I'm on
6 deposition -- Shifflett's deposition 139, starting at
7 line 17. Chris' deal is rather long.

8 So Mr. Shifflett's says: "That's actually
9 false."

10 And starting on 140, starting at 7: "That's
11 not how you treat everybody in your everyday life?"

12 Answer: "I talk to people like that. I truly
13 do. You can ask my coworkers. You can ask whoever
14 you want. That's the way I talk."

15 "Okay. And every inmate, whether they're poor,
16 black, and mentally ill like Marconia, or if they're
17 rich, white, and well-to-do, gets the same kind of
18 'fuck his ass' treatment by you?"

19 "It doesn't matter on anything. I treat
20 everybody the same."

21 I can keep going with more discussion on that.
22 But we're talking about treatment. He said, "I treat
23 everyone the same. Everyone gets the same 'fuck his
24 ass' treatment, whether they're rich or poor, black
25 or white."

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1 MS. DARK: Object to form.

2 Q. (By Mr. Hicks) Is that treatment, the
3 "fuck his ass" treatment that Mr. Shifflett
4 described, is that consistent with the values and
5 expectations at Cleveland County Detention Center?

6 MS. DARK: Object to the form.

7 THE WITNESS: No.

8 Q. (By Mr. Hicks) Okay. You only disciplined
9 him for saying the words, not the treatment; true?

10 A. Correct.

11 Q. Okay. You didn't find any problem with his
12 treatment --

13 MS. DARK: Object to the form.

14 Q. (By Mr. Hicks) -- of Mr. Kessee?

15 A. No.

16 Q. Okay. It is okay for jailers to assume
17 immediately that everyone in there is just trying
18 to -- everyone in here -- there who is acting sick or
19 injured or whatever is trying to fake an illness to
20 get out of jail?

21 MR. WINTER: Form.

22 Q. (By Mr. Hicks) Is that okay with you?

23 MS. DARK: Object to the form.

24 THE WITNESS: No.

25 Q. (By Mr. Hicks) What have you done to -- or

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1 Would you consider Marconia to have been
2 resistant?

3 A. I mean, he was definitely uncooperative.

4 Q. Was he acting --

5 A. And, yes, resistant, if he was biting --
6 trying to bite them.

7 Q. Was he what you would consider to be
8 aggressive?

9 A. Yes.

10 Q. If you will go to CCS0435.

11 A. 435?

12 Q. Uh-huh.

13 A. Yes, sir.

14 Q. The second full paragraph says:

15 "Personnel involved in response to
16 resistance to aggression shall complete the
17 proper documentation post response.

18 Documentation to response outside of
19 Cleveland County Detention Center shall
20 include Response to Resistant & Aggressive
21 Persons Contact Form. Documentation to
22 response inside the Cleveland County
23 Detention Center shall include the Response
24 to Resistant & Aggressive Persons Contact
25 Form - Detention. See attachment for

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1 examples."

2 Do you see that?

3 A. Yes, sir.

4 Q. I could not find in our discovery the
5 Response to Resistant & Aggressive Persons Contact
6 Form for Mr. Kessee.

7 A. Uh-huh.

8 Q. Does that form exist?

9 A. I have not seen it.

10 MS. DARK: Objection to the form.

11 Q. (By Mr. Hicks) To your knowledge, does that
12 form exist?

13 A. The personal contact form for Mr. Kessee, I
14 haven't seen it.

15 Q. The Response to Resistant & Aggressive
16 Persons Contact Form - Detention, I guess would be
17 the right form.

18 A. I know we have documentation of use of force
19 in the jail. I don't know of that specific form, but
20 we do have a process for documenting the use of
21 force.

22 Q. Okay. Your policy has this form. It's
23 important to follow the policies, true?

24 A. Yes.

25 MS. DARK: Object to the form.

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1 Q. (By Mr. Hicks) It's important -- you made a
2 form -- or you included a form because you felt like
3 a form was important; true?

4 MS. DARK: Object to the form.

5 THE WITNESS: I didn't make the form, sir.

6 Q. (By Mr. Hicks) Well, you included it in your
7 policies because you felt like the form was
8 important; true?

9 MS. DARK: Same objection.

10 THE WITNESS: Yes.

11 Q. (By Mr. Hicks) The form likely contains
12 references to information to make sure that the
13 documentation -- the documentation of resistant and
14 aggressive persons is complete and accurate; true?

15 A. Yes.

16 Q. And you expect your jailers to -- if they
17 experience a resistant or aggressive inmate, to fill
18 out the form that you put in the policy, true?

19 MS. DARK: Object to the form.

20 THE WITNESS: Yes.

21 Q. (By Mr. Hicks) And there's no such form in
22 this case; true?

23 A. I don't know that.

24 Q. I don't have one. So...

25 A. Okay.

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1 Q. So the only conclusion that I could reach, if
2 there's no form, is either that Mr. Kessee was not
3 considered resistant or aggressive or your jailers
4 violated this policy. Which is it?

5 MS. DARK: Object to the form.

6 THE WITNESS: In the Kessee case, I would
7 think that the form probably would have been omitted.
8 Is the question does the form exist? Or did those
9 deputies fill the form out?

10 Q. (By Mr. Hicks) Does the form exist?

11 A. If it does, I'm not directly aware of it.
12 I'm making an assumption it does because it's in
13 policy.

14 Q. So let's assume that it exists and it's not
15 filled out because I trust that your lawyers would
16 have sent it to me if it was.

17 Either Mr. Kessee was not being resistant or
18 aggressive, in the opinion of your jailers at the
19 time, or they violated this policy.

20 A. Once the --

21 MS. DARK: Object to the form.

22 Q. (By Mr. Hicks) Which is it?

23 A. Neither. Once they are subject employees of
24 the criminal investigation, I could see where they
25 would not fill out that form because it would be part

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1 or the other, which one it was?

2 A. I'm -- I was not able to determine which one
3 it was.

4 Q. If you'll turn the page. Going back to that,
5 you would agree, though, that if someone -- somebody
6 would have filled that form out if Mr. Kessee was
7 resistant because that's what the policy says?

8 A. If mister --

9 MS. DARK: Object to the form.

10 THE WITNESS: If Mr. Kessee had not passed
11 away, at some point in time that evening, I would say
12 yes, I would see a use of force report being
13 completed.

14 Q. (By Mr. Hicks) And correct me if I'm wrong.
15 To me it seems that where an inmate ultimately dies,
16 the prior uses of force would be all the more
17 important to know. And this one would be probably
18 more important than if he had walked home and went on
19 with his life. Would you not agree with that?

20 MS. DARK: Object to the form.

21 THE WITNESS: That's why a third-party
22 entity, like the OSBI, would come in and do a
23 detailed investigation in their view on that force
24 used.

25 Q. (By Mr. Hicks) If you will go to the next

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1 Q. (By Mr. Hicks) Okay. And then, on number 7,
2 with regard to detox, it says: "The initial detox
3 period is critical."

4 Why is the initial detox period critical?

5 A. Because we don't want to -- them -- if
6 they're intoxicated, while they're detoxing, we
7 don't -- when somebody is coming into a facility,
8 they could be coming up or coming down on their
9 detox, we don't know. And if they're going up, they
10 could go into a severe medical condition that
11 requires immediate attention. If they're cycling
12 down, then it's not as important, and we know that
13 they're sleeping it off or they're coming down.

14 Q. Right. And then, on the next line, it says
15 because this is when the majority of suicides and
16 critical incidents will occur. And vigilance is a
17 must.

18 Okay. I want to make sure I'm clear. Is this
19 why Mr. Kessee was under critical observation?

20 A. Yes, sir.

21 Q. So this is the policy that applies.

22 Why is vigilance a must for Mr. Kessee, under
23 this policy?

24 MS. DARK: Object to the form.

25 MR. WINTER: Form.